



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Olin Culberson, Chairman
Railroad Commission of Texas
Austin, Texas

Opinion No. 0-7113

Re: Refund of license fees paid for
butane gas handler's license

Dear Sir:

We have for reply your letter of February 21, 1946,
reading as follows:

"Mr. C. H. Park, Alvarado, Texas made application for a license to handle butane gas to the Gas Utilities Division. The fee was paid, deposited with the State Treasurer and the license issued.

"Mr. Park now advised that he does not wish to use the license and wishes a refund of his fee. Is there any way, under the law, in which this refund can be made in view of the fact that the license is not being used?"

The pertinent portions of the Liquefied Petroleum Gas Act read as follows:

"Section 7. (1) No person, firm or corporation shall engage in this state in the manufacturing, and/or assembling, and/or repairing, and/or selling, and/or installing of containers to be used with liquefied petroleum gases as a fuel, nor shall such person, firm, or corporation engage in the sale, transportation, dispensing or storage of liquefied petroleum gases within this state, except where stored by the ultimate consumer for consumption only, without having first obtained from the Railroad Commission of Texas under the provisions of this Act

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a license so to do. Applications for such licenses shall be in writing and shall contain such information as the Commission shall prescribe. * * *

"Section 10. For the purpose of defraying the expenses of administering this Act, each person, firm, corporation or association engaged in one or more of the pursuits named in subsection (1) of this section, except as otherwise provided in this subsection, shall at the time of issuance of such license, and annually thereafter, on or between September 1st and September 15th of each calendar year pay to the Railroad Commission a special fee of Twenty-five (\$25.00) Dollars; except that each person, firm, or corporation who operates a truck or trucks in the wholesale or retail delivery of liquefied petroleum gas, shall at the time of issuance of such license, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay to the Railroad Commission a special fee of Fifty (\$50.00) Dollars, and when such fifty dollar fee is paid, said firm or corporation shall not be liable for the payment of the Twenty-five (\$25.00) Dollar fee as provided herein.

"If the license here provided for is issued after the month of September of any year, all fees shall be prorated to the remaining portion of the year to August 31st following, but in no case less than one-fourth of the total annual fee." (Chapter 358, Acts 49th Leg., R. S., 1945, p. 629)

As we understand the facts set forth in your letter, the licensee in question voluntarily paid the license fee provided for under the provisions of the Butane Gas Act and a license was issued. He now desires a refund of the fee.

We have found no provision in Title 102 of the Revised Civil Statutes of Texas, 1925, or any amendments thereto, whereby the Legislature has authorized the refund of such a license fee. Under the circumstances set forth in your letter, the law is well settled that a refund may not be made. See 27 Tex. Jur. (Licenses, § 75) pps. 921, 922; City of Houston vs. Feizer, 76 Tex. 365, 13 S. W. 266; Galveston County vs. Gorham, 49 Tex. 279; Austin National Bank vs. Sheppard (Sup. Ct. 1934), 71 S. W. (2d) 242; and compare Opinions No. 0-6019 (refusing

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refund of filing fee for real estate license) and Opinion No. 0-6302 (refusing refund of proportionate part of package store permit fee).

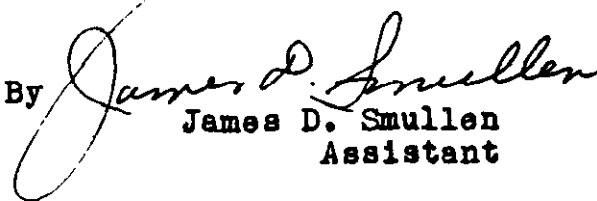
We therefore answer your question in the negative.

Yours very truly

ATTORNEY GENERAL OF TEXAS



By



James D. Smullen
Assistant

JDS:jt

